

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Herman B. Anderson
Petitioner-Appellant,

v.

Polk County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 11-77-0916
Parcel No. 181/00424-506-000

On April 30, 2013, the above-captioned appeal came on for consideration before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Petitioner-Appellant Herman B. Anderson was self-represented. Assistant County Attorneys David Hibbard and Ralph Marasco, Jr. are counsel for the Board of Review. Anderson requested his appeal proceed without a hearing. Both parties submitted documentary evidence in support of their position. The Appeal Board now having examined the entire record, heard the testimony, and being fully advised, finds:

Findings of Fact

Herman B. Anderson, owner of the property located at 521 NE 7th Street in Ankeny, Iowa appeals the Polk County Board of Review decision reassessing his property. According to the property record card, the subject property is a two-story home, built in 1976, with 1500 square of living area and a 720 square-foot unfinished basement. The property also has a 308 square-foot deck; a 180 square-foot concrete patio; and a 576 square-foot detached garage built in 1976. The site is 0.195 acres. The property is reported as being a 4+00 grade and in normal condition. The real estate was classified as residential on the January 1, 2011 assessment and valued at \$153,700; allocated as \$26,900 in land value and \$126,800 in improvement value. Anderson protested to the Polk County Board of Review on the grounds that the property was inequitably assessed under Iowa Code section

441.37(1)(a)(1) and was over assessed under section 441.37(1)(a)(2). He stated the actual value of the property was \$145,000. The Board of Review denied the protest.

Anderson then appealed to this Board reasserting his claims. He now contends the property's value is \$144,000.

Anderson provided two properties he considered comparable for his equity claim. One of the properties (117 NE Crestmoor Place) was a one-story design compared to the subject property's two-story design. Therefore, we do not find it a reasonable comparable. Anderson notes the second property (514 NE 7th Street) sold in May 2011 for \$144,000. However, there is no information in the record regarding this sale and if it was an arm's length transaction. For this reason we hesitate to rely solely on this sale.

The Polk County Board of Review submitted five 2009-2010 sales it considered comparable to the subject. All are arms- length transactions, ranging from \$135,500 to \$166,500. After adjustments for differences in the properties, the prices ranged from \$133,481 to \$160,530; with a median adjusted value of roughly \$144,000. We also note that four of the five properties had adjusted values of less than \$150,000. While the Board of Review analysis appears to indicate the subject property may be over-assessed, we limit our reliance on the information because it was not explained. We also note, the Appraiser Analysis suggests the appraiser believed the sales supported the assessment. Ultimately, it is Anderson's burden to provide evidence of the correct market value for the subject property.

Conclusion of Law

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. This Board is an agency and the provisions of the Administrative Procedure Act apply. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review, but considers only those grounds presented to or considered by the Board of Review. §§ 441.37A(3)(a); 441.37A(1)(b). New or

additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available to determine market value then "other factors," such as income and/or cost, may be considered. § 441.21(2). The property's assessed value shall be one hundred percent of its actual value. § 441.21(1)(a).

In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2), the taxpayer must show: 1) the assessment is excessive and 2) the subject property's correct value. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). Anderson did not provide sufficient evidence of the fair market value of the subject property as of January 2, 2011.

Therefore, we affirm the Herman B. Anderson's property located at 521 NE 7th Street, Ankeny, Iowa, as determined by the Board of Review. The Appeal Board determines the property assessment value as of January 1, 2011, is \$153,700, representing \$26,900 in land value and \$126,800 in dwelling value.

THE APPEAL BOARD ORDERS that the January 1, 2011, assessment as determined by the Polk County Board of Review is affirmed.

Dated this 21st day of May 2013.

Stewart Iverson

Stewart Iverson, Presiding Officer

Jacqueline Rypma

Jacqueline Rypma, Board Member

Karen Oberman

Karen Oberman, Board Member

Copies to:

Herman B. Anderson
521 NE 7th Street
Ankeny, Iowa 50021
APPELLANT

David Hibbard/Ralph Marasco, Jr.
111 Court Avenue
Room 340
Des Moines, Iowa 50309
ATTORNEYS FOR APPELLEE

Certificate of Service

The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on May 21, 2013.

By: ☒ U.S. Mail ☐ FAX
☐ Hand Delivered ☐ Overnight Courier
☐ Certified Mail ☐ Other

Jean Cooper

Signature _____